

IN THE UNITED STATES DISTRICT COURT  
OR THE EASTERN DISTRICT OF CALIFORNIA

RICHARD REES, et.al, Plaintiff,  
vs. **ORDER, SUA SPONTE, ON MOTION  
FACILITATION OF NOTICE TO COUNSEL  
MEMBERS (Doc. 22)**

SOUZA'S MILK TRANSPORTATION,  
CO., et al.,

## Defendants.

Pursuant to a notice filed on February 7, 2006, plaintiffs Richard Rees and Robert Winters brought a motion to facilitate notice to potential class members. Defendant Souza's Milk Transportation, Co. filed an opposition on February 21, 2006. On March 22, 2006, this Court denied the motion without prejudice. The Court found that the motion was premature in that the District Court had not yet ruled on the class certifications. The order stated that the Court would reconsider the motion, *sua sponte*, upon the District Court's ruling. By order on April 24, 2006, the District Court certified two classes in the above action. Accordingly, based upon the May 4, 2006 request of plaintiffs, the Court *sua sponte* reconsiders plaintiffs' motion, and defendant's opposition papers, and orders as follows.

## **FACTUAL BACKGROUND**

This case involves claims for unpaid overtime compensation brought by representative plaintiffs on behalf of other truck drivers. The purported class members claim a violation of the Fair Labor Standards Action (“FLSA”), 29 U.S.C. § 210 et seq., and a claim for relief alleges violation of the

1 California Unfair Competition law ("UCL"), Cal.Bus.& Prof.Code §17200 et seq.

2 Plaintiffs moved this Court for certification of two classes on February 7, 2006. The classes  
3 proposed and ultimately certified are:

4 (1) Collective action under the FLSA:

5 "All persons who are now employed or have been employed by defendant  
6 in the State of California who, on or after February 28, 2002, to the time  
7 of trial, have worked as a truck driver hauling dairy products from  
8 processing plants to warehouses or retail establishments solely within the  
State of California and have worked in excess of forty (40) hours per  
week without being paid overtime compensation by Souza for those  
excess hours."

9 (2) Class action under the UCL:

10 "All persons who are now employed or have been employed by defendant  
11 in the State of California who, on or after February 28, 2001 to the time  
12 of trial, have worked as a truck driver hauling dairy products from  
13 processing plants to warehouses or retail establishments solely within the  
State of California and have worked in excess of forty (40) hours per  
week without being paid overtime compensation by defendants for those  
excess hours."

#### 14 **ANALYSIS & DISCUSSION**

15 This Court has authority to facilitate notice to potential class members. The Supreme Court has  
16 held that court authorization and facilitation of the notice process of such actions, under certain  
17 circumstances, is proper, "if not necessary." *Hoffmann-La Roche Inc. v. Sperling*, 493 U.S. 165, 110  
18 S.Ct. 482, 486, 107 L.Ed.2d 480 (1989) (approval of court facilitation in ADEA cases). In the instant  
19 case, the parties do not dispute that this Court has authority to facilitate notice to potential class  
20 members. In addition, the parties do not dispute the form or the substance of the notice.

21 This motion is identical in all material respects to the comparable motion made in the related  
22 case of *Willis v. Cal-Western Transport*, CV-00-5695, *Baganha v. Cal. Milk Transport*, CV-01-5729,  
23 *Vasquez v. Jim Aartman, Inc.*, CV-02-5624, and *Aguayo v. Oldenkamp*, CV-04-6279. The notice is  
24 identical in all major aspects as the notices approved in these related cases. Accordingly, the form and  
25 substance of the notice are approved.

26 ////

27 ////

28 ////

1 **CONCLUSION**

2 For the foregoing reasons, the motion for notice to class members is GRANTED.

3 IT IS SO ORDERED.

4 **Dated: May 5, 2006**  
b9ed48

/s/ Lawrence J. O'Neill  
UNITED STATES MAGISTRATE JUDGE

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28